No. 89-5346

In The

Supreme Court of The United States

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October Term, 1989

WILLIAM BRADLEY,

Petitioner

-vs-

STATE OF OHIO,

Respondent.

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OFFICE OF THE CLERK,
SUPREME COURT, U.S.

ON PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF OHIO

SUPPLEMENTAL BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

In Question Four of Petitioner's Petition for Certiorari, Petitioner presented the Court with the question of whether a person who is already in prison for one crime, is considered "in-custody" within the meaning of Miranda v. Arizona and therefore must receive Miranda warnings before being questioned concerning another crime that has been committed.

On June 4, 1990, this Court issued an opinion in Illinois v. Perkins, ___ U.S. ___ (1990), holding that a law enforcement officer posing as a fellow inmate need not give Miranda warnings to an incarcerated suspect before asking questions that may elicit an incriminating response. This Court left open the question of whether the bare fact of custody requires a warning when the

suspect is aware he is speaking to an official. Petitioner Bradley's case presents this Court with that question.

Unlike Perkins, the questioner in Petitioner Bradley's case was not an undercover agent posing as a prisoner, the questioner was a prison guard. Petitioner Bradley knew he was speaking to a prison guard, he was in custody, and was asked specific questions about a crime that had been committed. These questions, such as "Did you do that?" addressed the ultimate issue of whether Petitioner Bradley had committed the crime in question and Petitioner Bradley was not given Miranda warnings before the questioning took place.

It is the premise of Miranda that the danger of coercion results from the interaction of custody and official interrogation. Perkins, at ___. Petitioner Bradley was confined in prison for a prior crime. When the incident involved in this case occurred, the area that the incident occurred in was closed off and the inmates were strip-searched and in Petitioner Bradley's case, interrogated.

In Mathis v. United States, 391 U.S. 1 (1968), this Court implied that an individual imprisoned, irrespective of the reason for his incarceration, is in custody. This custody requires the state to warn an inmate concerning his Fifth Amendment rights when a prison official is explicitly questioning an inmate concerning a crime; however, since Mathis the federal courts have split on whether custody should be assumed. This Court itself left that question open in Perkins.

Petitioner requests that this Court accept certiorari to clarify its decision in Mathis as to when a person is "in custody" for Miranda purposes during prison interrogation.

Respectfully submitted,

RANDALL M. DANA
Ohio Public Defender

RANDALL L. PORTER
Assistant State Public Defender
Counsel of Record

KATHLEEN A. McGARRY
Assistant State Public Defender

Ohio Public Defender Commission
8 East Long Street - 11th Floor
Columbus, Ohio 43266-0587
614/466-5394

COUNSEL FOR PETITIONER